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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of State on the 16th March, 1922 :—

No. 6 OF 1922.

A Bill to provide for the incorporation of Trustees for the European Hospital for mental diseases at Ranchi, and to make provision for other matters in relation thereto.

WHEREAS it is expedient to provide for the incorporation of Trustees for the European Hospital for mental diseases at Ranchi, and to make provision for other matters in relation thereto; It is hereby enacted as follows :—

1. (1) This Act may be called the Ranchi Mental Hospital Act, 1922.
Short title and commencement.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. In this Act, unless there is anything repugnant in the subject or context,—
Definitions.

- (a) "the Board" means the Board of Trustees for the European Hospital for mental diseases at Ranchi constituted under this Act;
- (b) "the Chairman" means the Chairman of the Board;
- (c) "the Hospital" means the European Hospital for mental diseases established at Ranchi in the province of Bihar and Orissa;
- (d) "land" means land as defined in section 3 of the Land Acquisition Act, 1894;

- (e) "the Local Government" means the Local Government of Bihar and Orissa;
- (f) "the Superintendent" means the Superintendent of the Hospital appointed by the Local Government; and
- (g) "Trustee" means a member of the Board.

3. Subject to the provisions of this Act, the incorporation of entire management and control of the Hospital shall, on and from the date on which this Act comes into force, be vested in a Board to be called "the Trustees for the European Hospital for mental diseases at Ranchi," and the Board shall be a body corporate having perpetual succession and a common seal, with power to acquire and hold property both moveable and immoveable and to contract, and shall by the said name sue and be sued.

4. (1) The Board shall consist of fourteen Trustees, namely :—
Constitution of the Board.

- (a) a Chairman appointed by the Local Government;
- (b) four Trustees appointed by the Local Government of Bengal;
- (c) two Trustees appointed by each of the Local Governments of the United Provinces of Agra and Oudh, the Punjab and Bihar and Orissa;
- (d) one Trustee appointed by the Local Government of the Central Provinces;
- (e) one Trustee elected by the Calcutta branch of the European Association; and

(f) one Trustee elected by the Anglo-Indian and Domiciled European Association (Bengal), Limited.

(2) The Superintendent shall be *ex-officio* Secretary of the Board.

5. (1) On the date on which this Act comes into force, the Governor General in Council shall pay to the Board a sum of three and a half lakhs of rupees by way of loan, which sum shall be repaid by the Board, together with any interest or costs due in respect thereof, in accordance with such terms and conditions as the Governor General in Council may fix.

IV of 1912.

(2) Any amount which is repaid or is repayable in any year under sub-section (1) shall be taken into account in the calculation of the amount attributable to the cost of maintenance, as defined in section 3 of the Indian Lunacy Act, 1912, of the lunatics detained in the Hospital in that year.

6. (1) The Governor General in Council may, Loans to the Board on such terms and conditions for specific purposes, as he may fix, make further loans to the Board for the carrying out of any works in connection with the Hospital which have been sanctioned in accordance with the provisions of any rules made under this Act, and the Board shall repay the money borrowed, together with any interest or costs due in respect thereof, according to the terms and conditions of the loan.

(2) Save as provided in section 5 and sub-section (1), the Board shall not borrow money upon or otherwise charge its funds.

IV of 1912

7. On and from the date on which the provisions of this Act come into force, all monies payable under the Indian Lunacy Act, 1912, on account of the cost of maintenance of any lunatic in the Hospital shall be paid to the Board.

I of 1894.

8. The Local Government may, at the request of the Board, acquire under the provisions of the Land Acquisition Act, 1894, any land which it is satisfied is required by the Board for the purposes of the Hospital, and, on payment by the Board of the compensation awarded under that Act and of the charges incurred by the Local Government in connection with the proceedings, the land shall vest in the Board.

9. Subject to the provisions of this Act and of any rules made hereunder, the Board shall maintain such staff of officers and servants as may in its opinion be necessary for the proper management and up-keep of the Hospital, and shall assign to them such pay and allowances as it thinks fit.

10. Where any person in the service of Government is appointed as an officer or servant of the Board, the Board shall—
Contributions for pension, etc.

(a) if his services are wholly lent or transferred, meet in addition to his pay and allowances any charges prescribed or authorised by any rules for the time being in force under the provisions of section 96B of the Government of India Act regarding contributions towards pensions or gratuities and leave allowances, and

(b) if he is employed partly by Government and partly by the Board, meet such proportion of such pay and allowances and charges as may be determined by the Local Government.

11. Every Trustee and every officer and servant of the Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 186

12. The Local Government may call upon the Board to furnish it with any Returns. extract from any proceedings of the Board or from any record under the control of the Board, or with any statistics concerning the administration of the Hospital, and the Board shall thereupon furnish the same without unreasonable delay.

13. (1) If the Local Government, after such inquiry as it may deem fit, is satisfied—
Control and supervision of the Board.

(a) that any of the duties imposed or powers conferred upon the Board by or under this Act has not been performed or exercised, or has been performed or exercised in an imperfect, inefficient or unsuitable manner; or

(b) that adequate financial provision has not been made for the performance of any such duty or for the proper maintenance of the Hospital;

it may, by order in writing, direct the Board, within such period as may be specified in the order, to make arrangements to the satisfaction of the Local Government for the proper performance of any such duty or the proper exercise of any such power, or to make financial provision to the satisfaction of the Local Government for the performance of any such duty or for the maintenance of the Hospital, as the case may be; and the Board shall thereupon comply with such direction.

(2) On the failure of the Board to comply with any such direction, the Local Government or any person appointed by the Local Government in this behalf may perform such duty or exercise such power or make such provision, as the case may be, and the Local Government may attach the funds of the Board or any portion thereof and may apply the same to meet any charges incurred in the performance of such duty or the exercise of such power, or in the making of such provision, as the case may be.

(3) On the repeated failure of the Board to comply with such directions, or if the Board otherwise exceeds or abuses its powers, the Local Government may, with the previous sanction of the Governor General in Council, by notification in the Gazette of India and in the Bihar and Orissa Gazette, declare the Board to be incompetent or to have exceeded or abused its powers, as the case may be, and direct that the Board shall be superseded for such period as may be specified in the notification.

(4) When the Board is superseded under the provisions of sub-section (3)—

(a) all Trustees shall, from the date of the publication of the notification under that sub-section, vacate their offices as Trustees;

(b) all powers and duties of the Board shall, during the period of supercession, be exercised and performed by such person or persons as the Local Government may appoint in this behalf ;

(c) all funds and other property vested in the Board shall, during the period of supercession, vest in the Local Government on behalf of His Majesty ; and

(d) before the expiration of the period of supercession, elections shall be held and appointments made for the purpose of reconstituting the Board.

(5) If the Local Government is informed by the Governor General in Council that the Board has made default in the repayment of any sum due on account of a loan under section 5 or section 6, the Local Government shall forthwith exercise such of its powers under sub-sections (1) and (2) as may be necessary for the purpose of enforcing such repayment.

14. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the Gazette of India and in the Bihar and Orissa Gazette, declare that, with effect from such date as may be specified in the notification, the Board shall be dissolved, and, on the making of such declaration, all funds and other property vested in the Board shall vest in the Local Government on behalf of His Majesty.

15. The Governor General in Council may make rules prescribing—
Power of the Governor General in Council to make rules.

(a) the qualifications for being appointed a Trustee ;

(b) the circumstances in which and the authority by which any Trustee may be removed ;

(c) the filling of any vacancy in the office of a Trustee, whether temporary or otherwise ;

(d) the term of office of Trustees ; and

(e) the allowances, if any, payable to the Trustees from the funds of the Board on account of attendance at meetings of the Board.

16. (1) The Local Government may, subject to the rules made under section 15, make rules for the purpose of carrying into effect all or any of the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :—

(a) for fixing the minimum number of meetings of the Board during any year ;

(b) for requiring the maintenance by the Board or the Managing Committee of the Board of a record of all business transacted and the submission of copies of such record to the Local Government or to any other specified authority ;

(c) for defining the powers of the Board, the Managing Committee of the Board, the Chairman and the Superintendent, respectively, to enter into contracts which shall be binding on the Board, and the manner in which such contracts shall be executed ;

(d) for sanctioning works in connection with the Hospital, and for prescribing the preparation of estimates of such works before work is commenced and the authority by which such estimates shall be sanctioned ;

(e) for the procedure to be observed in calling for and considering tenders ;

(f) for requiring the preparation of schedules of the staff of officers and servants of the Board ;

(g) for defining the powers of the Board, the Managing Committee of the Board, the Chairman and the Superintendent, respectively, in respect of the appointment, promotion and dismissal of officers and servants of the Board, and in respect of the creation and abolition of appointments of such officers or servants ;

(h) for regulating the grant of leave to officers and servants of the Board, and the payment of leave allowances to such officers and servants, and the remuneration to be paid to any person appointed to act for any officer or servant to whom leave is granted ;

(i) for regulating the payment of pensions gratuities, compassionate allowances and travelling allowances to officers and servants of the Board ;

(j) for prescribing the establishment and maintenance of a provident fund for the officers and servants of the Board, and for the deduction of subscriptions to such provident fund from the pay and allowances of such officers or servants, other than Government servants whose services have been lent or transferred to the Board ;

(k) for prescribing the preparation of budget estimates of the annual receipts and expenditure of the Board and of supplementary estimates of expenditure not included in the budget estimates, and the manner in which such estimates shall be sanctioned and published ;

(l) for defining the powers of the Board, the Managing Committee of the Board, the Chairman and the Superintendent, respectively, in regard to the expenditure of the funds of the Board, whether provision has or has not been made in the budget estimates or by re-appropriation for such expenditure, and in regard to the re-appropriation of estimated savings in the budget estimates of expenditure ;

(m) for prescribing the maintenance of accounts of the receipts and expenditure of the Board and providing for the audit of such accounts ;

(n) for prescribing the manner in which payments are to be made by or on behalf of the Board, and the officers by whom orders for making deposits or investments or for withdrawals or disposal of the funds of the Board shall be signed; and

(o) for determining the custody in which the current account of the Board shall be kept, and the bank or banks at which surplus monies at the credit of the Board may be deposited at interest, and the conditions on which such monies may be otherwise invested.

17. Subject to any rules made under sections 15 and 16, the Board may, with the previous sanction of the Local Government, make rules to provide for all or any of the following matters, namely :—

- (a) for the constitution of a Managing Committee and the delegation thereto of any powers exercisable under this Act by the Board;
- (b) for prescribing the method of appointment, removal and replacement and the term of office of members of the Managing Committee, and for the filling of vacancies therein;
- (c) for the appointment of the dates, times and places for meetings of the Board and the Managing Committee, and for regulating the procedure to be observed at such meetings;
- (d) for determining the amount and nature of the security, if any, to be demanded from officers or servants of the Board, and the circumstances in which such security may be demanded;
- (e) for determining the times at which, and the circumstances in which, payments may be made out of the provident fund, and the conditions on which such payments shall relieve the fund from further liability;

(f) for determining the contribution, if any, payable from the funds of the Board to the provident fund;

(g) for regulating generally all matters incidental to the provident fund and the investment thereof; and

(h) for defining the powers and duties of the Secretary of the Board.

18. All rules made under this Act shall be made subject to the condition of previous publication, and shall be published in the Gazette of India and in the Bihar and Orissa Gazette, and on such publication shall have effect as if they were enacted in this Act.

19. No suit shall be instituted against the Board or any Trustee or any officer or servant of the Board, or any person acting under the direction of the Board or of the Chairman or of any such officer or servant, in respect of any act purporting to be done under this Act or any rule made hereunder until the expiration of one month after written notice has been delivered or left at the office of the Board or at the office or place of abode of such officer or servant, stating the cause of action, the name and place of abode of the complainant and the relief which he claims, and unless the plaint contains a statement that such notice has been so delivered or left.

20. No act done or proceedings taken under this Act shall be questioned on the ground merely of—

- (a) the existence of any vacancy in or any defect in the constitution of the Board or the Managing Committee; or
- (b) any person having ceased to be a Trustee; or
- (c) any omission, defect or irregularity not affecting the merits of the case.

21. For all the purposes of the Indian Lunacy Act, 1912, the Hospital shall be deemed to be an asylum established by the Government.

STATEMENT OF OBJECTS AND REASONS.

A central asylum has for some years been established at Ranchi for the reception of European lunatics from Northern India. As it was intended to serve the needs of several provinces the whole initial cost of the buildings and equipment was met from Imperial funds, but the Provincial Governments concerned agreed to pay the cost of maintenance of all lunatics maintained in the hospital from their provinces. The recovery of these charges has now incidentally been placed upon a legal basis by the enactment of the Indian Lunacy (Amendment) Act, 1922, but the Government of Bihar and Orissa still anticipate considerable difficulties in financing the hospital which in a great measure has been instituted to meet the needs of other provinces.

With the separation of provincial from central finances which has followed the introduction of the Reforms, the Government of India are unable to finance the hospital to a greater extent than is permissible under the Devolution Rules. That is, the Central Government can meet the cost of maintenance of lunatics from places under the Central Government who are maintained in the hospital, and otherwise can only make advances to the Local Government from central revenues under Devolution Rule 25. In order to meet these difficulties, it is considered that it is desirable to make over the hospital to a Board of Trustees on which the various provinces interested in the maintenance of the hospital would be represented and which would be responsible for its proper upkeep under the control of the Government of Bihar and Orissa. The ordinary annual charges would be met by the Board by recoveries from the patients and Local Governments concerned, and the Board would be placed in funds until such recoveries become due by an advance from the central revenues, and the capital cost of original works would also be met by similar advances. Such advances would be repaid to the Central Government by equated instalments of principal and interest within such periods as would be fixed in each case. The object of the present Bill is to give effect to this scheme. It provides for the incorporation of the Board of Trustees, the powers of the Board and the restrictions upon the powers of the Board. The Government of Bengal is given greater representation on the Board than other Local Governments, because 58 per cent. of the inmates of the hospital come from that province. In addition, arrangements are included for the control and supersession of the Board in the event of its failure to perform its duties or of its repeated failure to perform its duties. Finally, the Bill provides for the dissolution of the Board at any time and the re-vesting of the funds and other property of the Board in the Government of Bihar and Orissa on behalf of His Majesty. An order to this effect can, however, only be made by the Government of Bihar and Orissa with the previous sanction of the Governor General in Council, and the intention is that such sanction shall not be granted unless suitable provision is made by the Local Government for safeguarding the interests of other Local Governments which have contributed to the maintenance of lunatics in the Asylum.

S. P. O'DONNELL.

DELHI :

The 6th March, 1922.

H. MONCRIEFF SMITH,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the law relating to the emoluments claimable by Watandar Hindu priests was presented to the Legislative Assembly on the 15th March, 1922 :—

Paper No. I—From the Government of Madras, No. 712, dated the 27th June, 1921, and enclosures.

From the Government of Bombay, No. A-576, dated the 28th July, 1921, and enclosures.

From the Government of Bengal, No. 2959-J., dated the 8th July, 1921.

From the Government of the United Provinces, No. 946, dated the 25th June, 1921, and enclosures.

From the Government of the Punjab, No. 20244-Judl., dated the 2nd August, 1921, and enclosures.

From the Government of Burma, No. 1826—L-58, dated the 24th June, 1921.

From the Government of Bihar and Orissa, No. 376-J. A.—12—21—J.T., dated the 25th June, 1921.

From the Government of the Central Provinces, No. C-186, dated the 1st July, 1921, and enclosures.

From the Government of Assam, No. 114-G. and J., dated the 29th June, 1921.

From the Chief Commissioner, North-West Frontier Province, No. 765-G. N., dated the 3rd June, 1921.

From the Chief Commissioner of Coorg, No. 8-T.—7—35—1921, dated the 23rd June, 1921, and enclosures.

From the Chief Commissioner of Delhi, No. 4179-Home, dated the 28th June, 1921, and enclosures.

From the Registrar of the High Court of Calcutta, No. 8160-G., dated the 3rd June, 1921.

Paper No. II—From the Government of the United Provinces, No. 1558, dated the 1st December, 1921.

Mr. N. M. Samarth was unable to attend the meeting of the Committee.

2. Only two of the amendments which we have made in the Bill call for particular mention. In the first place, we have added an extent clause providing for the original extension of the Act to the Presidency of Bombay and to the Central Provinces. We consider that a clear case for the application of the Act to Bombay has been made out and we are, by a majority, of opinion that such a case has also been made out in regard to those parts of the Central Provinces which the Bill will affect. Secondly, we have omitted the definition of "Hindu", a term which, we are convinced, it is impossible satisfactorily to define.

3. The remaining alterations which we suggest are merely of a drafting nature, and do not alter the scope of the Bill as introduced.

The Bill was published in the Gazette of India, dated the 2nd April, 1921.

4. We think that the Bill has not been so altered as to require republication, and we recommend that it be passed as now amended.

We, the undersigned, Members of the Select Committee, to which the Bill to amend the law relating to the emoluments claimable by Watandar Hindu priests was referred have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

T. B. SAPRU.

A. B. LATTHE.

W. H. VINCENT.

K. G. BAGDE.

H. S. GOURA.

N. M. JOSHI.

P. L. MISRA.*

B. H. JATKAR.*

The 11th March, 1922.

* Subject to a minute of dissent.

MINUTE OF DISSENT.

We do not agree that the Act should be applied to the Central Provinces at once. It should better be left to the discretion of that Local Government to extend it, if necessary, as, in its opinion, there is no indication of any hardship at present in that Province. Moreover, it may be found necessary to consider the question of compensation, if the vested rights of a Watandar Joshi are greatly affected by the application of this Act.

To this extent we would be free to move an amendment to the Bill.

B. H. JATKAR.

P. L. MISRA.

The 14th March, 1922.

[AS AMENDED BY THE SELECT COMMITTEE.]

[Words printed in italics indicate the amendments suggested by the Committee.]

BILL

TO

Amend the law relating to the right of hereditary Hindu priests to claim emoluments in respect of religious ceremonies.

WHEREAS it is expedient *that the law in force in certain parts of British India should be amended in so far as it relates to the right of hereditary Hindu priests to claim emoluments in respect of religious ceremonies*; It is hereby enacted as follows:—

1. (1) This Act may be called the Hindu Ceremonial Emoluments Act, 192 .
Short title and extent.

(2) *It shall extend, in the first instance, to the Presidency of Bombay and to the Central Provinces; but the Local Government of any other Province may, by notification in the local official Gazette, extend it to that Province or any part thereof.*

2. In this Act "ceremonial emoluments" means any fees or other dues, whether in money or in kind, receivable by any person in respect of a religious ceremony by reason of his being an hereditary Hindu priest.
Definition.

3. *No suit shall lie in any Court of law for the recovery of any ceremonial emoluments from any person by or on behalf of an hereditary Hindu priest unless such priest has, at the request or with the consent of such person, performed or assisted in the performance of the ceremony in respect of which the emoluments are claimed.*
Right to claim ceremonial emoluments.

H. MONCRIEFF SMITH,
Secretary to the Government of India.

